

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Case No. 5:20-mj-97

The person or body of Patrick Fire Thunder for photographs of any
injuries, two buccal swabs from the person of Patrick Fire Thunder, the
clothing belonging to Patrick Fire Thunder and the search of a black
Chevrolet Silverado license plate P0350 currently in Oglala Sioux Tribe
Department of Public Safety custody.

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attached Affidavit

located in the _____ District of South Dakota, there is now concealed (identify the person or describe the property to be seized):

See Attached Affidavit

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

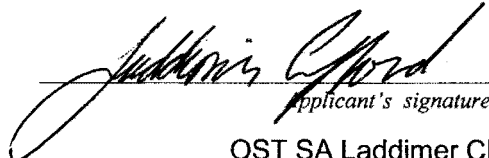
- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. §§ 113(a)(6) and 1153	Assault Resulting in Serious Bodily Injury

The application is based on these facts:

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

OST SA Laddimer Clifford
Printed name and title

Sworn to before me via reliable electronic

communication. Date: 5-5-2020 at 2:00 PM

City and state: Rapid City, SD


Judge's signature

Daneta Wollmann, U.S. Magistrate Judge
Printed name and title

2. I have been a Criminal Investigator (CI) with the OST since January 2020. Prior to being hired as a CI, I was employed as a Lieutenant by the Oglala Sioux Tribe Department of Public Safety (OST DPS). I have approximately 28 years of law enforcement experience. I am currently assigned to investigate Federal criminal violations occurring on the Pine Ridge Reservation.

3. The information set forth below is based upon my knowledge of an investigation conducted by the Oglala Sioux Tribe, and the investigation of other law enforcement agents and officers. I have not included each and every fact obtained pursuant to this investigation, but have set forth those facts that I believe are essential to establish the necessary probable cause for the issuance of the search warrant.

4. I make this affidavit in support of an application for a search warrant for the person or body of Patrick Fire Thunder for photographs of any injuries, two buccal swabs from the person of Patrick Fire Thunder, the clothing belonging to Patrick Fire Thunder seized on April 19, 2020, and the search of a black Chevrolet Silverado license plate P0350 currently in the custody of the OST DPS.

ITEMS TO BE SEARCHED FOR AND SEIZED:

5. This affidavit is submitted in support of an application in support of an application for a search warrant for the person or body of Patrick Fire Thunder for photographs of any injuries, two buccal swabs from the person of Patrick Fire Thunder, the clothing belonging to Patrick Fire Thunder seized on April 19, 2020, and the search of a black Chevrolet Silverado license plate P0350 currently in the custody of the OST DPS.

6. Your affiant believes there is probable cause to search Patrick Fire Thunder's person for photographs of evidence of injuries based on Gallego's statement that Yellow Horse attacked Fire Thunder first. Your affiant also believes there is probable cause to search Fire Thunder's person for two buccal

swabs in order to compare his DNA to DNA left at the scene of the crime, as well as Fire Thunder's clothing that was seized on April 19, 2020. Finally, your affiant believes there is evidence to search the black Chevrolet Silverado for evidence of a crime involving the assault of Dale Yellow Horse.

PROBABLE CAUSE

7. On April 18, 2020, at approximately 9:30 PM, Oglala Sioux Tribe Department of Public Safety (OSTDPS) Officers Naca Charging Crow and Andrew Twiss responded to a fight call at Traci Gallego's residence. Gallego's residence is within the exterior boundaries of the Pine Ridge Reservation and is approximately 2 miles west of Pine Ridge Village. Your affiant learned that Gallego asked Robert Morrison to call OST DPS to report that Dale Yellow Horse and Patrick Fire Thunder got into a fight outside of her residence in Pine Ridge.

8. Your affiant learned that when officers arrived on scene they observed Dale Yellow Horse lying on the ground outside Gallego's residence. Yellow Horse had blood on his shirt, one of his shoes and one of his socks. Additionally, your affiant observed blood on wooden pallets outside the residence, the front passenger's side tire of the Chevrolet Silverado, as well as the passenger's side door of the truck and all over the ground outside of the residence. Your affiant office collected swabs from the blood on the ground and on the truck. Your affiant learned from a review of Officer Twiss' report that Yellow Horse had a "cut" or what appeared to be as a stab wound near his jaw and a hole in his shirt. Your affiant learned that Officer Twiss lifted Yellow

Horses' shirt and noticed a second wound on his chest. Your affiant learned that officers moved Yellow Horses' body and found a black folding knife with blood on it lying near Yellow Horse. Your affiant learned that Officer Twiss assisted Yellow Horse onto a gurney and that as Yellow Horse's neck moved, blood emptied from Yellow Horses' neck.

9. Officers heard movement from within Gallego's residence, however, when law enforcement knocked on the door no one answered. Officers then heard a male say, "help me," and forced entry into the residence.

10. Your affiant learned that officers located Robert Morrison, who had fallen on the floor and could not get up, as well as David American Horse who was asleep on a bed. Morrison is usually confined to a wheel chair and is very slow and not very mobile. Your affiant learned that officers learned from Morrison that Gallego came into the house and said that Yellow Horse and Fire Thunder got into a fight and that she (Gallego) needed to leave presumably because police were on their way.

11. Your affiant learned that when OST DPS officers arrived, Fire Thunder and Gallego had fled, and that Fire Thunder left his vehicle behind at his residence.

12. Your affiant learned that Yellow Horse was transported to Indian Health Services Hospital in Pine Ridge and then life-flighted to Rapid City Regional Hospital. Your affiant learned from Federal Bureau of Investigation FBI Special Agent (SA) Christian Corwin who learned from Morrison that Yellow

Horse's carotid artery was severed and that he had several emergent surgeries to relieve pressure on his brain. Your affiant is aware that Yellow Horse is still in the hospital and that he will suffer from long term injuries as a result of the assault.

13. Your affiant interviewed Gallego on April 19, 2020, at approximately 2:45 P.M. Gallego stated that she did not see anything and that she went to a cousin's residence following the stabbing incident.

14. Your affiant then spoke with Robert Morrison at Lynn Salway's a/k/a Lynn Mousseaux's residence. Morrison told your affiant that the group had been drinking vodka on April 18, 2020 and that he was inside when the fight occurred. Your affiant learned from Morrison that Gallego came into the residence two times. The first time, Gallego told Morrison to call for an ambulance. The second time, Gallego told Morrison to call the police. After Gallego told Morrison to call the police, Gallego was not seen again.

15. On the evening of April 19, 2020, your affiant returned to Gallego's residence in order to have a forensic mapping done of the scene. At that time, Fire Thunder exited the house and turned himself in. Fire Thunder was arrested and transported to the Justice Center in Pine Ridge. Fire Thunder was advised of his Miranda rights and indicated that did not wish to speak. Your affiant asked Fire Thunder where his clothes were and Fire Thunder stated that his clothes were inside. Gallego provided the clothing to your affiant and your affiant

requests a search warrant authorizing the search and seizure of the clothing for evidence in the form of DNA.

16. Following Fire Thunder's surrender, your affiant and SA Corwin interviewed Gallego at her residence. Gallego stated that they were all drinking at her house. Those drinking at her house included David American Horse, Robert Morrison, Dale Yellow Horse, Patrick Fire Thunder and Gallego. Gallego stated that Yellow Horse and Fire Thunder left in the Chevrolet Silverado to sell a Nintendo Switch. Gallego, American Horse and Morrison were at the table when she heard "hollering" outside. Gallego exited the residence and saw Yellow Horse on the ground on a small hill near her house. Gallego told your affiant that Fire Thunder told her that (Dale) attacked him (Fire Thunder) first. Gallego stated that she fled to her cousin Becky's residence near a water tower. Gallego then advised that she did not go to Becky's residence, and that she drove to a friend's residence, Lahoma Crazy Thunder, who lives just up the road from Gallego's residence. Gallego denied taking Fire Thunder with her.

17. Your affiant learned that Morrison and Yellow Horse are married to one another and that Gallego and Fire Thunder are husband and wife.

18. Your affiant learned that Yellow Horse sustained serious bodily injury as a result of his assault by Fire Thunder.

19. Your affiant is requesting a search warrant authorizing the search and seizure of photographs of Fire Thunder's person based on Gallego's statement that Fire Thunder acted in self-defense. Additionally, based on the

blood located at the scene and truck and on Fire Thunder's clothing, your affiant is requesting two buccal swabs from Fire Thunder to determine the identity of the source of the blood at the scene and on Fire Thunder's clothing.

20. Your affiant is aware that Fire Thunder is an enrolled member of the Oglala Sioux Tribe.

21. Based upon your affiant's training and experience, your affiant is aware that evidence in the form of deoxyribonucleic acid (DNA) is contained in the head hair, skin, semen, blood, and saliva in human bodies. Saliva and other substances can be used to determine the identity of the contributor of a blood sample.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

22. Your affiant is requesting a search warrant for photographs of the person or body of Patrick Fire Thunder for evidence of any injuries, two buccal swabs from the person of Patrick Fire Thunder, the clothing belonging to Patrick Fire Thunder, and the search of a black Chevrolet Silverado license plate P0350 currently in the custody of the Oglala Sioux Tribe Department of Public Safety.

REQUEST FOR SEALING OF MATTER


23. I request that the Court order sealing this case until further order of the Court. The documents filed in the case discuss an ongoing criminal investigation that is neither public nor known to all the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may give targets an opportunity to destroy or tamper

with evidence, change patterns of behavior, notify confederates, or otherwise seriously jeopardize the investigation.


CONCLUSION

24. Based on your affiant training and experience, and the facts as set forth in this affidavit, there is probable cause to believe that a crime – Assault Resulting in Serious Bodily Injury occurred, in violation of 18 U.S.C. §§ 113(a)(6) and 1153, and that there is probable cause to search the person or body of Patrick Fire Thunder for photographs of any injuries as well as two buccal swabs from the person of Patrick Fire Thunder, the clothing belonging to Patrick Fire Thunder, and the search of a black Chevrolet Silverado license plate P0350 currently in the custody of the Oglala Sioux Tribe Department of Public Safety.

Dated: 5-5-2020


Criminal Investigator Laddimer
Clifford Oglala Sioux Tribe

SUBSCRIBED and SWORN via reliable electronic means
this 5th day of May, 2020.



DANETA WOLLMANN
U.S. MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address) Case No. 5:20-mj-97
The person or body of Patrick Fire Thunder for photographs of any injuries,)
two buccal swabs from the person of Patrick Fire Thunder, the clothing)
belonging to Patrick Fire Thunder and the search of a black Chevrolet)
Silverado license plate P0350 currently in Oglala Sioux Tribe Department of)
Public Safety custody.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of South Dakota
(identify the person or describe the property to be searched and give its location):

The person or body of Patrick Fire Thunder for photographs of any injuries, two buccal swabs from the person of Patrick Fire Thunder, the clothing belonging to Patrick Fire Thunder and the search of a black Chevrolet Silverado license plate P0350 currently in Oglala Sioux Tribe Department of Public Safety custody.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

Evidence of a crime of Assault Resulting in Serious Bodily Injury, in violation of 18 U.S.C. §§ 113(a)(6) and 1153, as outlined in the affidavit in support of the search warrant, which is incorporated herein by this reference.

I find that the affidavit, or any recorded testimony, establishes probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before May 19, 2020 (not to exceed 14 days)
☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Daneta Wollmann
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of _____

Date and time issued: 05/05/2020 2:00 pm



Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate Judge

Printed name and title

CC: AUSA, Poppen

AO 93 (Rev. 11/13) Search and Seizure Warrant (Page 2)

ReturnCase No.:
5:20-mj-97

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of :

Inventory of the property taken and name of any person(s) seized:

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: _____

*Executing officer's signature*_____
Printed name and title